



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 4925539

Date: JAN. 6, 2020

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a researcher in electrical engineering, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner satisfied three of the initial evidentiary criteria, in which he has to meet at least three, the Petitioner did not show his sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

II. ANALYSIS

The Petitioner indicated employment as a research scientist with [REDACTED] in [REDACTED] New Jersey. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner met three of the initial evidentiary criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv), original contributions at 8 C.F.R. § 204.5(h)(3)(v), and scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). The record reflects that the Petitioner reviewed papers for journals. In addition, the Petitioner has authored scholarly articles in professional publications. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria. However, for the reasons discussed below, we do not concur with the Director's determination that the Petitioner fulfilled the original contributions criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Director found that the Petitioner satisfied this criterion without identifying the original contributions of major significance and explaining his determination. To satisfy this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.¹ For example, a petitioner may show that his contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. The Petitioner claims he meets this criterion based on his scholarly articles, conference presentations, research projects, patent applications, and reference letters from colleagues and other scientists and researchers. Because the record does not reflect that the Petitioner demonstrated that he meets this criterion, we will withdraw the findings of the Director for this criterion.

¹ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 8-9 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

Within the Petitioner's initial submission, he provided letters from colleagues and other scientists and researchers. Although the authors discuss the Petitioner's research findings, their letters do not demonstrate that his work resulted in a contribution of major significance in the field. [REDACTED]

[REDACTED] a professor in electrical and computer engineering at the [REDACTED] Institute of Technology, indicates he met the Petitioner at multiple international conferences and workshops in the field. He describes the Petitioner as an extraordinary scientist based upon his work in the area of [REDACTED] systems, specifically, his having designed a solution to greatly reduce the number of power system blackouts with [REDACTED] [REDACTED]."

[REDACTED] a professor at [REDACTED] University and the Petitioner's colleague at the University of [REDACTED] in 2015, states that the Petitioner has made a "significant contribution to [REDACTED] and its application in energy systems." He credits the Petitioner with "designing an [REDACTED] controller for highly complex systems and consensus networks" and pioneering "the research on [REDACTED] control of inter-area oscillations in power systems" to enhance the stability of the power grid.

The Petitioner also provided an advisory opinion letter from [REDACTED] a professor at the University of [REDACTED] who praises the Petitioner's research on [REDACTED] design as an innovative approach that is useful in many modern applications, and describes the Petitioner as "a rising star in the area of [REDACTED] for large-scale networks." However, [REDACTED] [REDACTED] and [REDACTED] do not explain how, specifically, the Petitioner's solutions and [REDACTED] have impacted the field in a major or significant way, consistent with a finding of "contributions of major significance."

The record also contains a letter from [REDACTED] the Petitioner's masters and doctoral advisor at the University of [REDACTED]. He asserts that the Petitioner's research provided "significant contributions" to the [REDACTED] systems and [REDACTED] systems fields, proposing the "ground breaking framework" of [REDACTED] for systems with symmetries, consensus, and synchronization networks. He discusses possible applications of the Petitioner's research findings, and notes that the Petitioner brought his research results "into industrial applications" during his internship and employment with [REDACTED].

[REDACTED] of [REDACTED] states that since January 2017 the Petitioner has been working on the company's "projects to develop, evaluate, and demonstrate innovative and transformative technologies to boost [REDACTED] in the power system from 40% to 100%." He describes the Petitioner's work on several [REDACTED] projects, such as the [REDACTED] project. He indicates the Petitioner also worked on [REDACTED] government-funded projects with the [REDACTED], developing algorithms for the [REDACTED] to improve the stability and resiliency of [REDACTED], and with the [REDACTED] developing [REDACTED] algorithms for energy storage and power generation. While the evidence shows that the Petitioner contributed to [REDACTED]'s activities, the Petitioner did not show the unusual influence or great impact of his research work in the overall field beyond his employer. [REDACTED] also indicates that the Petitioner's research work for [REDACTED] has resulted in six patent applications, and he asserts that the Petitioner will be "able to bring his innovative ideas into real world applications that would significantly benefit the scientific, industrial, and economic

development of the United States.” In general, a patent recognizes the originality of an invention or idea but does not necessarily establish it as a contribution of major significance in the field. [] [] however, did not explain how the Petitioner’s methods or patent applications have already significantly impacted or influenced the field. Without evidence that the invention or innovation has been widely used or adopted in the field, or have otherwise influenced the field in a significant way, the patent applications do not establish that the Petitioner meets this criterion.

[] a professor at the University of [] indicates that he met the Petitioner at multiple international conferences in the field. He asserts that the Petitioner was “the first researcher to propose a framework that is able to identify [] and design an [] while preserving the original power system [] structure,” and that the Petitioner “proposed a novel methodology to use [] to study and control [] systems.” He provides that the Petitioner’s “innovative” approach “could be used as an effective means for prevention of power outages nationwide,” and by control engineers to “better design [] to guarantee more robust systems.” He states that the Petitioner’s control design framework has been shown to be effective “in detailed simulations” and predicts it “will greatly improve the performance of the power grid and reduce power outages.”

[] an assistant professor at [] University, met the Petitioner at multiple international conferences in the field at which the Petitioner presented his research on [] of power systems. She describes the [] algorithm that the Petitioner developed as “an effective method for handling the [] resources in modern power systems,” and predicts that the Petitioner’s approach “will prove very beneficial to industrial automation.”

The letters of [] and [] did explain how the Petitioner’s proposed methods are viewed in the field as having been of major significance. Instead, their letters speculated on his work’s potential influence and on the possibility of it being majorly significant at some point in the future.

Within the Petitioner’s response to the Director’s request for evidence, he provided letters from additional colleagues and experts. [] an associate professor at [] University, states that the Petitioner’s research work on [] power grid “provides a new and innovative perspective.” He states that the Petitioner “has produced an exceptional amount of original scholarship, disseminated his original work in some of the top journals and conferences in his field, and he is leading multiple cutting-edge research projects.”

[] a program director at the [] of the [], indicates she is familiar with the Petitioner’s work through his presentations at various international conferences and workshops. She indicates that the Petitioner has developed [] algorithms for [] in power systems,” and states that his “proposed [] approach is an innovative, yet practical method for reducing the number of power outages.”

[redacted] an associate professor at [redacted] University, claims that the Petitioner's research regarding [redacted] can have many different applications, such as in social networks and power and communication systems.

[redacted], a scientist at the [redacted] Laboratory, is currently working with the Petitioner's team at [redacted] on a three-year project funded by [redacted]. He asserts that the Petitioner and his team developed a "control scheme for real-time control and supervision of [redacted] hydropower plant and energy storages" and "[t]he [U.S.] power grid will ultimately benefit from [the Petitioner's] ideas of [redacted] systems." He provides that the Petitioner's technology will be implemented in a future [redacted] project in [redacted], Alaska, with the involvement of the Petitioner's team at [redacted].

While the letters may show promise in the Petitioner's research findings, they do not establish how his work already qualifies as a contribution of major significance in the field, rather than prospective, potential impacts. Here, the significant nature of his work has yet to be determined or measured.

In addition, although the Petitioner asserts that the publication of his research is evidence of its significance, the record does not sufficiently demonstrate that his written work has been considered of major significance in the field. Within his initial filing, the Petitioner provided evidence from *Google Scholar* reflecting 106 cumulative citations to his 10 published articles. Specifically, the record shows that his two highest cited articles received 41 (*IEEE Transactions on Power Systems*) and 29 (*American Control Conference*) citations, respectively.²

This criterion requires the Petitioner to establish that he has made original contributions of major significance in the field. Thus, the burden is on the Petitioner to identify his original contributions and explain why they are of major significance in the field. Generally, citations can serve as an indication that the field has taken interest in a petitioner's research or written work. However, the Petitioner has not sufficiently shown that his citations for any of his published articles are commensurate with contributions of major significance. Here, the Petitioner did not articulate the significance or relevance of the citations to his articles. Although his citations are indicative that his research has received some attention from the field, the Petitioner did not demonstrate that his citation numbers to his individual articles represent majorly significant contributions in the field.³

The Petitioner also submitted articles that cited to his work. A review of those articles, though, does not show the significance of the Petitioner's research to the overall field beyond the authors who cited to his work.⁴ For instance, the Petitioner provided an article entitled, "[redacted] (Renewable and Sustainable Energy Reviews), in which the authors cited to his highest cited article (*IEEE Transactions on Power*

² The Petitioner's remaining 8 articles received between 1 and 9 citations, with 1 article garnering no citations.

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (providing an example that peer-reviewed articles in scholarly journals that have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite the individual's work as authoritative in the field, may be probative of the significance of the person's contributions to the field of endeavor).

⁴ *Id.* See also *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

Systems).⁵ However, the article does not distinguish or highlight the Petitioner's written work from the 131 other cited papers. In the case here, the Petitioner has not shown that his published articles through citations rise to a level of "major significance" consistent with this regulatory criterion.

Further, several reference letters provide that the Petitioner has been invited to present his findings at conferences. The letters, however, do not explain how his presentation and conference activities have impacted or influenced the field as a whole. Participation in a conference demonstrates that his findings were shared with others, but being selected to present, without more, is not indicative of the major significance of his contributions. Publications and presentations are not sufficient under this criterion absent evidence that they were of "major significance." *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115.

Here, the letters do not contain specific, detailed information explaining the unusual influence or high impact the Petitioner's work has had on the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁶ On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁷ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that the Petitioner has made original contributions of major significance in the field. Accordingly, we withdraw the finding of the Director for this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to

⁵ Although we discuss a sample article, we have reviewed and considered each one.

⁶ *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁷ *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff'd in part* 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). Although the Petitioner has reviewed papers for journals and has authored scholarly articles, the Petitioner has not established that his professional accomplishments have placed him among the upper level of his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.